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HOUSE BILL 869

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Antonio "Moe" Maestas

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; ENACTING THE UNIFORM MONEY SERVICES ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Article 1

GENERAL PROVISIONS

Section 101. SHORT TITLE.--This act may be cited as the "Uniform Money Services Act".

Section 102. DEFINITIONS.--As used in the Uniform Money Services Act:

A. "applicant" means a person that files an application for a license pursuant to the Uniform Money Services Act;

B. "authorized delegate" means a person that a licensee designates to provide money services on behalf of the

1 licensee;

2 C. "bank" means an institution organized under
3 federal or state law that:

4 (1) accepts demand deposits or deposits that
5 the depositor may use for payment to third parties and engages
6 in the business of making commercial loans; or

7 (2) engages in credit card operations and
8 maintains only one office that accepts deposits, does not
9 accept demand deposits or deposits that the depositor may use
10 for payments to third parties, does not accept a savings or
11 time deposit less than one hundred thousand dollars (\$100,000)
12 and does not engage in the business of making commercial loans;

13 D. "check cashing" means receiving compensation for
14 taking payment instruments or stored value, other than
15 traveler's checks, in exchange for money, payment instruments
16 or stored value delivered to the person delivering the payment
17 instrument or stored value at the time and place of delivery
18 without an agreement specifying when the person taking the
19 payment instrument will present it for collection;

20 E. "control" means:

21 (1) ownership of, or the power to vote,
22 directly or indirectly, at least twenty-five percent of a class
23 of voting securities or voting interests of a licensee or
24 person in control of a licensee;

25 (2) the power to elect, appoint, choose or

1 otherwise designate, directly or indirectly, a majority of
2 executive officers, managers, directors, trustees or other
3 persons exercising managerial authority of a licensee or person
4 in control of a licensee; or

5 (3) the power to exercise, directly or
6 indirectly, a controlling influence over the management or
7 policies of a licensee or person in control of a licensee;

8 F. "currency exchange" means receipt of revenues
9 from the exchange of money of one government for money of
10 another government;

11 G. "director" means the director of the financial
12 institutions division of the regulation and licensing
13 department;

14 H. "electronic" means relating to technology having
15 electrical, digital, magnetic, wireless, optical,
16 electromagnetic or similar capabilities;

17 I. "executive officer" means a president, chair of
18 the executive committee, chief financial officer, responsible
19 individual or other individual who performs similar functions;

20 J. "licensee" means a person licensed pursuant to
21 the Uniform Money Services Act;

22 K. "limited station" means private premises where a
23 check casher is authorized to engage in check cashing solely
24 for the employees of the particular employer or group of
25 employers specified in the check casher's license application;

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1 L. "mobile location" means a vehicle or a movable
2 facility where check cashing occurs;

3 M. "monetary value" means a medium of exchange,
4 whether or not redeemable in money;

5 N. "money" means a medium of exchange that is
6 authorized or adopted by the United States or a foreign
7 government. "Money" includes a monetary unit of account
8 established by an intergovernmental organization or by
9 agreement between two or more governments;

10 O. "money services" means money transmission, check
11 cashing or currency exchange;

12 P. "money transmission" means selling or issuing
13 payment instruments, stored value or receiving money or
14 monetary value for transmission. "Money transmission" does not
15 include the provision solely of delivery, online or
16 telecommunications services or network access;

17 Q. "outstanding", with respect to a payment
18 instrument, means issued or sold by or for the licensee and
19 reported as sold but not yet paid by or for the licensee;

20 R. "payment instrument" means a check, draft, money
21 order, traveler's check or other instrument for the
22 transmission or payment of money or monetary value, whether or
23 not negotiable. "Payment instrument" does not include a credit
24 card voucher, letter of credit or instrument that is redeemable
25 by the issuer in goods or services;

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1 S. "person" means an individual, corporation,
2 business trust, estate, trust, partnership, limited liability
3 company, association, joint venture, government, governmental
4 subdivision, agency or instrumentality, public corporation or
5 any other legal or commercial entity;

6 T. "record" means information that is inscribed on
7 a tangible medium or that is stored in an electronic or other
8 medium and is retrievable in perceivable form;

9 U. "responsible individual" means an individual who
10 is employed by a licensee and has principal managerial
11 authority over the provision of money services by the licensee
12 in New Mexico;

13 V. "sign" means, with present intent to
14 authenticate or adopt a record:

15 (1) to execute or adopt a tangible symbol; or

16 (2) to attach to or logically associate with
17 the record an electronic sound, symbol or process;

18 W. "state" means a state of the United States, the
19 District of Columbia, Puerto Rico, the United States Virgin
20 Islands or any territory or insular possession subject to the
21 jurisdiction of the United States;

22 X. "stored value" means monetary value that is
23 evidenced by an electronic record; and

24 Y. "unsafe or unsound practice" means a practice or
25 conduct by a person licensed to engage in money transmission or

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1 an authorized delegate of such a person that creates the
2 likelihood of material loss, insolvency or dissipation of the
3 licensee's assets, or otherwise materially prejudices the
4 interests of its customers.

5 Section 103. EXCLUSIONS.--The Uniform Money Services Act
6 does not apply to:

7 A. the United States or a department, agency or
8 instrumentality thereof;

9 B. money transmission by the United States postal
10 service or by a contractor on behalf of the United States
11 postal service;

12 C. a state, county, city or any other governmental
13 agency or governmental subdivision of a state;

14 D. a bank, bank holding company, office of an
15 international banking corporation, branch of a foreign bank,
16 corporation organized pursuant to the federal Bank Service
17 Company Act or corporation organized pursuant to the federal
18 Edge Act pursuant to the laws of a state or the United States
19 if it does not issue, sell or provide payment instruments or
20 stored value through an authorized delegate that is not such a
21 person;

22 E. electronic funds transfer of governmental
23 benefits for a federal, state, county or governmental agency by
24 a contractor on behalf of the United States or a department,
25 agency or instrumentality thereof, or a state or governmental

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1 subdivision, agency or instrumentality thereof;

2 F. a board of trade designated as a contract market
3 pursuant to the federal Commodity Exchange Act or a person
4 that, in the ordinary course of business, provides clearance
5 and settlement services for a board of trade to the extent of
6 its operation as or for such a board;

7 G. a registered futures commission merchant under
8 the federal commodities laws to the extent of its operation as
9 such a merchant;

10 H. a person that provides clearance or settlement
11 services pursuant to a registration as a clearing agency or an
12 exemption from such registration granted under the federal
13 securities laws to the extent of its operation as such a
14 provider;

15 I. an operator of a payment system to the extent
16 that it provides processing, clearing or settlement services,
17 between or among persons excluded by this section, in
18 connection with wire transfers, credit card transactions, debit
19 card transactions, stored-value transactions, automated
20 clearinghouse transfers or similar funds transfers; or

21 J. a person registered as a securities
22 broker-dealer under federal or state securities laws to the
23 extent of its operation as such a broker-dealer.

24 Article 2

25 MONEY TRANSMISSION LICENSES

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1 Section 201. LICENSE REQUIRED.--

2 A. A person shall not engage in the business of
3 money transmission or advertise, solicit or hold itself out as
4 providing money transmission unless the person:

5 (1) is licensed pursuant to this article or
6 approved to engage in money transmission pursuant to Section
7 203 of the Uniform Money Services Act;

8 (2) is an authorized delegate of a person
9 licensed pursuant to this article; or

10 (3) is an authorized delegate of a person
11 approved to engage in money transmission pursuant to Section
12 203 of the Uniform Money Services Act.

13 B. A license pursuant to this article is not
14 transferable or assignable.

15 Section 202. APPLICATION FOR LICENSE.--

16 A. As used in this section, "material litigation"
17 means litigation that, according to generally accepted
18 accounting principles, is significant to an applicant's or a
19 licensee's financial health and would be required to be
20 disclosed in the applicant's or licensee's annual audited
21 financial statements, report to shareholders or similar
22 records.

23 B. A person applying for a license pursuant to this
24 article shall do so in a record signed under penalty of perjury
25 that shall be in a form and in a medium prescribed by the

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1 director. The application shall state or contain:

2 (1) the legal name and residential and
3 business addresses of the applicant and any fictitious or trade
4 name used by the applicant in conducting its business;

5 (2) a list of any criminal convictions of the
6 applicant and any material litigation in which the applicant
7 has been involved in the ten-year period next preceding the
8 submission of the application;

9 (3) a description of any money services
10 previously provided by the applicant and the money services
11 that the applicant seeks to provide in New Mexico;

12 (4) a list of the applicant's proposed
13 authorized delegates and the locations in New Mexico where the
14 applicant and its authorized delegates propose to engage in
15 money transmission or provide other money services;

16 (5) a list of other states in which the
17 applicant is licensed to engage in money transmission or
18 provide other money services and any license revocations,
19 suspensions or other disciplinary action taken against the
20 applicant in another state;

21 (6) information concerning any bankruptcy or
22 receivership proceedings affecting the licensee;

23 (7) a sample form of contract for authorized
24 delegates, if applicable, and a sample form of payment
25 instrument or instrument upon which stored value is recorded,

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1 if applicable;

2 (8) the name and address of any bank through
3 which the applicant's payment instruments and stored value will
4 be paid;

5 (9) a description of the source of money and
6 credit to be used by the applicant to provide money services;
7 and

8 (10) any other information the director
9 reasonably requires with respect to the applicant.

10 C. If an applicant is a corporation, limited
11 liability company, partnership or other entity, the applicant
12 shall also provide:

13 (1) the date of the applicant's incorporation
14 or formation and the state or country of incorporation or
15 formation;

16 (2) if applicable, a certificate of good
17 standing from the state or country in which the applicant is
18 incorporated or formed;

19 (3) a brief description of the structure or
20 organization of the applicant, including any parent or
21 subsidiary of the applicant, and whether any parent or
22 subsidiary is publicly traded;

23 (4) the legal name, any fictitious or trade
24 name, all business and residential addresses and the
25 employment, in the ten-year period next preceding the

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1 submission of the application of each executive officer,
2 manager, director or person that has control of the applicant;

3 (5) a list of any criminal convictions and
4 material litigation in which any executive officer, manager,
5 director or person in control of the applicant has been
6 involved in the ten-year period next preceding the submission
7 of the application;

8 (6) a copy of the applicant's audited
9 financial statements for the most recent fiscal year and, if
10 available, for the two-year period next preceding the
11 submission of the application;

12 (7) a copy of the applicant's unconsolidated
13 financial statements for the current fiscal year, whether
14 audited or not, and, if available, for the two-year period next
15 preceding the submission of the application;

16 (8) if the applicant is publicly traded, a
17 copy of the most recent report filed with the United States
18 securities and exchange commission pursuant to Section 13 of
19 the federal Securities Exchange Act of 1934;

20 (9) if the applicant is a wholly owned
21 subsidiary of:

22 (a) a corporation publicly traded in the
23 United States, a copy of audited financial statements for the
24 parent corporation for the most recent fiscal year or a copy of
25 the parent corporation's most recent report filed pursuant to

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1 Section 13 of the federal Securities Exchange Act of 1934; or

2 (b) a corporation publicly traded
3 outside the United States, a copy of similar documentation
4 filed with the regulator of the parent corporation's domicile
5 outside the United States;

6 (10) if the applicant has a registered agent
7 in New Mexico, the name and address of the applicant's
8 registered agent in New Mexico; and

9 (11) any other information the director
10 reasonably requires with respect to the applicant.

11 D. A nonrefundable application fee of two thousand
12 dollars (\$2,000) and a license fee of two thousand dollars
13 (\$2,000) shall accompany an application for a license pursuant
14 to this article. The license fee shall be refunded if the
15 application is denied.

16 E. The director may waive one or more requirements
17 of Subsection B or C of this section or permit an applicant to
18 submit other information in lieu of the required information.

19 Section 203. APPROVAL TO ENGAGE IN MONEY TRANSMISSION
20 WHEN LICENSED IN ANOTHER STATE.--

21 A. A person that is licensed to engage in money
22 transmission in at least one other state, with the approval of
23 the director and in accordance with this section, may engage in
24 money transmission, check cashing or currency exchange in New
25 Mexico without being licensed pursuant to Section 202 of the

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1 Uniform Money Services Act if:

2 (1) the state in which the person is licensed
3 has enacted the Uniform Money Services Act or the director
4 determines that the money transmission laws of that state are
5 substantially similar to those imposed by the law of New
6 Mexico;

7 (2) the person submits to the director in a
8 form and in a medium required by the director:

9 (a) an application for approval to
10 engage in money transmission, check cashing or currency
11 exchange in New Mexico without being licensed pursuant to
12 Section 202 of the Uniform Money Services Act in a record
13 signed under penalty of perjury;

14 (b) a nonrefundable fee of one thousand
15 dollars (\$1,000); and

16 (c) a certification of license history
17 in the other state.

18 B. Before granting a person approval pursuant to
19 this section to engage in money transmission and check cashing
20 or currency exchange or both in New Mexico, the director shall
21 make findings and conclusions required by rule.

22 C. When an application for approval pursuant to
23 this section is complete, the director shall promptly notify
24 the applicant, in a record, of the date on which the request
25 was determined to be complete and:

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1 (1) the director shall approve or deny the
2 request within one hundred twenty days after that date; or

3 (2) if the request is not approved or denied
4 within one hundred twenty days after that date:

5 (a) the request is approved; and

6 (b) the approval takes effect as of the
7 first business day after expiration of the one-hundred-twenty-
8 day period.

9 D. A person that engages in money transmission and
10 check cashing or currency exchange or both in New Mexico
11 pursuant to this section shall comply with the requirements of,
12 and is subject to the sanctions pursuant to, Articles 6, 7 and
13 8 of the Uniform Money Services Act as if the person were
14 licensed pursuant to Section 202 of that act.

15 Section 204. SECURITY.--

16 A. Except as otherwise provided in Subsection B of
17 this section, a surety bond, letter of credit or other similar
18 security acceptable to the director in the amount of fifty
19 thousand dollars (\$50,000) plus ten thousand dollars (\$10,000)
20 per location, not exceeding a total addition of two hundred
21 fifty thousand dollars (\$250,000), shall accompany an
22 application for a license.

23 B. The security shall be in form and substance and
24 from an issuer satisfactory to the director and payable to New
25 Mexico for the benefit of any claimant against the licensee to

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1 secure the faithful performance of the obligations of the
2 licensee with respect to money transmission.

3 C. The aggregate liability on a surety bond shall
4 not exceed the principal sum of the bond. A claimant against a
5 licensee may maintain an action on the bond or the director may
6 maintain an action on behalf of the claimant.

7 D. A surety bond shall cover claims for so long as
8 the director specifies, but for at least five years after the
9 licensee ceases to provide money services in New Mexico.
10 However, the director may permit the amount of security to be
11 reduced or eliminated before the expiration of that time to the
12 extent the amount of the licensee's payment instruments or
13 stored-value obligations outstanding in New Mexico is reduced.
14 The director may permit a licensee to substitute another form
15 of security acceptable to the director for the security
16 effective at the time the licensee ceases to provide money
17 services in New Mexico.

18 E. In lieu of the security prescribed in this
19 section, an applicant for a license or a licensee may provide
20 security in form and substance and from an issuer prescribed by
21 the director.

22 F. The director may increase the amount of security
23 required to a maximum of one million dollars (\$1,000,000) if
24 the financial condition of a licensee so requires, as evidenced
25 by reduction of net worth, financial losses or other relevant

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1 criteria.

2 Section 205. ISSUANCE OF LICENSE.--

3 A. When an application is filed pursuant to this
4 article, the director shall investigate the applicant's
5 financial condition and responsibility, financial and business
6 experience, character and general fitness. The director may
7 conduct an on-site investigation of the applicant, the
8 reasonable cost of which the applicant shall pay. The director
9 shall issue a license to an applicant pursuant to this article
10 if the director finds that all of the following conditions have
11 been fulfilled:

12 (1) the applicant has complied with Sections
13 202, 204 and 207 of the Uniform Money Services Act; and

14 (2) the financial condition and
15 responsibility, financial and business experience, competence,
16 character and general fitness of the applicant and the
17 competence, experience, character and general fitness of the
18 executive officers, managers, directors and persons in control
19 of the applicant indicate that it is in the interest of the
20 public to permit the applicant to engage in money transmission.

21 B. When an application for an original license
22 pursuant to this article is complete, the director shall
23 promptly notify the applicant in a record of the date on which
24 the application was determined to be complete and:

25 (1) the director shall approve or deny the

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1 application within one hundred twenty days after that date; or

2 (2) if the application is not approved or
3 denied within one hundred twenty days after that date:

4 (a) the application is approved; and

5 (b) the license takes effect as of the
6 first business day after expiration of the one-hundred-twenty-
7 day period.

8 C. The director may for good cause extend the
9 application period.

10 D. An applicant whose application is denied by the
11 director pursuant to this article may appeal, within thirty
12 days after receipt of the notice of the denial, from the denial
13 and request a hearing.

14 Section 206. RENEWAL OF LICENSE.--

15 A. A licensee pursuant to this article shall pay an
16 annual renewal fee of two thousand dollars (\$2,000) no later
17 than thirty days before the anniversary of the issuance of the
18 license or, if the last day is not a business day, on the next
19 business day.

20 B. A licensee pursuant to this article shall submit
21 a renewal report with the renewal fee, in a record signed under
22 penalty of perjury that shall be in a form and in a medium
23 prescribed by the director. The renewal report shall state or
24 contain:

25 (1) a copy of the licensee's most recent

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1 audited annual financial statement or, if the licensee is a
2 wholly owned subsidiary of another corporation, the most recent
3 audited consolidated annual financial statement of the parent
4 corporation or the licensee's most recent audited consolidated
5 annual financial statement;

6 (2) the number and monetary amount of payment
7 instruments and stored value sold by the licensee in New Mexico
8 that have not been included in a renewal report and the
9 monetary amount of payment instruments and stored value
10 currently outstanding;

11 (3) a description of each material change in
12 information submitted by the licensee in its original license
13 application that has not been reported to the director on any
14 required report;

15 (4) a list of the licensee's permissible
16 investments and a certification that the licensee continues to
17 maintain permissible investments according to the requirements
18 set forth in Sections 701 and 702 of the Uniform Money Services
19 Act;

20 (5) proof that the licensee continues to
21 maintain adequate security as required by Section 204 of the
22 Uniform Money Services Act; and

23 (6) a list of the locations in New Mexico
24 where the licensee or an authorized delegate of the licensee
25 engages in money transmission or provides other money services.

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1 C. If a licensee does not file a renewal report or
2 pay its renewal fee by the renewal date or any extension of
3 time granted by the director, the director shall send the
4 licensee a notice of suspension. Unless the licensee files the
5 report and pays the renewal fee before expiration of ten days
6 after the notice is sent, the licensee's license is suspended
7 ten days after the director sends the notice of suspension.
8 The suspension shall be lifted if, within twenty days after its
9 license is suspended, the licensee:

10 (1) files the report and pays the renewal fee;
11 and

12 (2) pays one hundred dollars (\$100) for each
13 day after suspension that the director did not receive the
14 renewal report and the renewal fee.

15 D. The director for good cause may grant an
16 extension of the renewal date.

17 Section 207. NET WORTH.--A licensee pursuant to this
18 article shall maintain a net worth of at least twenty-five
19 thousand dollars (\$25,000) determined in accordance with
20 generally accepted accounting principles.

21 Article 3

22 CHECK CASHING LICENSES

23 Section 301. LICENSE REQUIRED.--

24 A. A person shall not engage in check cashing or
25 advertise, solicit or hold itself out as providing check

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1 cashing for which the person receives at least five hundred
2 dollars (\$500) within a thirty-day period unless the person:

3 (1) is licensed pursuant to this article;

4 (2) is licensed for money transmission
5 pursuant to Article 2 of the Uniform Money Services Act or
6 approved to engage in money transmission pursuant to Section
7 203 of the Uniform Money Services Act;

8 (3) is licensed for currency exchange pursuant
9 to Article 4 of the Uniform Money Services Act;

10 (4) is an authorized delegate of a person
11 licensed pursuant to Article 2 of the Uniform Money Services
12 Act; or

13 (5) is an authorized delegate of a person
14 approved to engage in money transmission pursuant to Section
15 203 of the Uniform Money Services Act.

16 B. A license pursuant to this article is not
17 transferable or assignable.

18 Section 302. APPLICATION FOR LICENSE.--

19 A. A person applying for a license pursuant to this
20 article shall do so in a record signed under penalty of perjury
21 that shall be in a form and in a medium prescribed by the
22 director. The application shall state or contain:

23 (1) the legal name and residential and
24 business addresses of the applicant if the applicant is an
25 individual or, if the applicant is not an individual, the name

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1 of each partner, executive officer, manager and director;

2 (2) the location of the principal office of
3 the applicant;

4 (3) complete addresses of other locations in
5 New Mexico where the applicant proposes to engage in check
6 cashing or currency exchange, including all limited stations
7 and mobile locations;

8 (4) a description of the source of money and
9 credit to be used by the applicant to engage in check cashing
10 and currency exchange; and

11 (5) other information the director reasonably
12 requires with respect to the applicant, but not more than the
13 director may require pursuant to Article 2 of the Uniform Money
14 Services Act.

15 B. A nonrefundable application fee of two thousand
16 dollars (\$2,000) and a license fee of two thousand dollars
17 (\$2,000) shall accompany an application for a license pursuant
18 to this article. The license fee shall be refunded if the
19 application is denied.

20 Section 303. ISSUANCE OF LICENSE.--

21 A. When an application is filed pursuant to this
22 article, the director shall investigate the applicant's
23 financial condition and responsibility, financial and business
24 experience, character and general fitness. The director may
25 conduct an on-site investigation of the applicant, the

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1 reasonable cost of which the applicant shall pay. The director
2 shall issue a license to an applicant pursuant to this article
3 if the director finds that all of the following conditions have
4 been fulfilled:

5 (1) the applicant has complied with Section
6 302 of the Uniform Money Services Act; and

7 (2) the financial condition and
8 responsibility, financial and business experience, competence,
9 character and general fitness of the applicant and the
10 competence, experience, character and general fitness of the
11 executive officers, managers, directors and persons in control
12 of the applicant indicate that it is in the interest of the
13 public to permit the applicant to engage in check cashing.

14 B. When an application for an original license
15 pursuant to this article is complete, the director shall
16 promptly notify the applicant in a record of the date on which
17 the application was determined to be complete and:

18 (1) the director shall approve or deny the
19 application within one hundred twenty days after that date; or

20 (2) if the application is not approved or
21 denied within one hundred twenty days after that date:

22 (a) the application is deemed approved;
23 and

24 (b) the director shall issue the
25 license, pursuant to this article, to take effect as of the

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1 first business day after expiration of the one-hundred-twenty-
2 day period.

3 C. The director may for good cause extend the
4 application period.

5 D. An applicant whose application is denied by the
6 director pursuant to this article may appeal, within thirty
7 days after receipt of the notice of the denial, from the denial
8 and request a hearing.

9 Section 304. RENEWAL OF LICENSE.--

10 A. A licensee pursuant to this article shall pay a
11 biennial renewal fee of two thousand dollars (\$2,000) no later
12 than thirty days before each biennial anniversary of the
13 issuance of the license or, if the last day is not a business
14 day, on the next business day.

15 B. A licensee pursuant to this article shall submit
16 a renewal report with the renewal fee in a record signed under
17 penalty of perjury that shall be in a form and in a medium
18 prescribed by the director. The renewal report shall state or
19 contain:

20 (1) a description of each material change in
21 information submitted by the licensee in its original license
22 application that has not been reported to the director on any
23 required report; and

24 (2) a list of the locations in New Mexico
25 where the licensee or an authorized delegate of the licensee

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1 engages in check cashing or currency exchange, including
2 limited stations and mobile locations.

3 C. If a licensee does not file a renewal report or
4 pay its renewal fee by the renewal date or any extension of
5 time granted by the director, the director shall send the
6 licensee a notice of suspension. Unless the licensee files the
7 report and pays the renewal fee before expiration of ten days
8 after the notice is sent, the licensee's license is suspended
9 ten days after the director sends the notice of suspension.

10 D. The director for good cause may grant an
11 extension of the renewal date. The suspension shall be lifted
12 if, within twenty days after its license is suspended, the
13 licensee:

14 (1) files the report and pays the renewal fee;
15 and

16 (2) pays one hundred dollars (\$100) for each
17 day after suspension that the director did not receive the
18 renewal report and the renewal fee.

19 Article 4

20 CURRENCY EXCHANGE LICENSES

21 Section 401. LICENSE REQUIRED.--

22 A. A person shall not engage in currency exchange
23 or advertise, solicit or hold itself out as providing currency
24 exchange for which the person receives revenues equal or
25 greater than five percent of total revenues unless the person:

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- 1 (1) is licensed pursuant to this article;
2 (2) is licensed for money transmission
3 pursuant to Article 2 of the Uniform Money Services Act or
4 approved to engage in money transmission pursuant to Section
5 203 of that act;
6 (3) is licensed for check cashing pursuant to
7 Article 3 of the Uniform Money Services Act;
8 (4) is an authorized delegate of a person
9 licensed pursuant to Article 2 of the Uniform Money Services
10 Act; or
11 (5) is an authorized delegate of a person
12 approved to engage in money transmission pursuant to Section
13 203 of the Uniform Money Services Act.

14 B. A license pursuant to this article is not
15 transferable or assignable.

16 Section 402. APPLICATION FOR LICENSE.--

17 A. A person applying for a license pursuant to this
18 article shall do so in a record signed under penalty of perjury
19 that shall be in a form and in a medium prescribed by the
20 director. The application shall state or contain:

21 (1) the legal name and residential and
22 business addresses of the applicant if the applicant is an
23 individual or, if the applicant is not an individual, the name
24 of each partner, executive officer, manager and director;

25 (2) the location of the principal office of

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1 the applicant;

2 (3) complete addresses of other locations in
3 New Mexico where the applicant proposes to engage in currency
4 exchange or check cashing, including all limited stations and
5 mobile locations;

6 (4) a description of the source of money and
7 credit to be used by the applicant to engage in check cashing
8 and currency exchange; and

9 (5) other information the director reasonably
10 requires with respect to the applicant, but not more than the
11 director may require pursuant to Article 2 of the Uniform Money
12 Services Act.

13 B. A nonrefundable application fee of two thousand
14 dollars (\$2,000) and a license fee of two thousand dollars
15 (\$2,000) shall accompany an application for a license pursuant
16 to this article. The license fee shall be refunded if the
17 application is denied.

18 Section 403. ISSUANCE OF LICENSE.--

19 A. When an application is filed pursuant to this
20 article, the director shall investigate the applicant's
21 financial condition and responsibility, financial and business
22 experience, character and general fitness. The director may
23 conduct an on-site investigation of the applicant, the
24 reasonable cost of which the applicant shall pay. The director
25 shall issue a license to an applicant pursuant to this article

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1 if the director finds that all of the following conditions have
2 been fulfilled:

3 (1) the applicant has complied with Section
4 402 of the Uniform Money Services Act; and

5 (2) the financial condition and
6 responsibility, financial and business experience, competence,
7 character and general fitness of the applicant and the
8 competence, experience, character and general fitness of the
9 executive officers, managers, directors and persons in control
10 of the applicant indicate that it is in the interest of the
11 public to permit the applicant to engage in currency exchange.

12 B. When an application for an original license
13 pursuant to this article is complete, the director shall
14 promptly notify the applicant in a record of the date on which
15 the application was determined to be complete and:

16 (1) the director shall approve or deny the
17 application within one hundred twenty days after that date; or

18 (2) if the application is not approved or
19 denied within one hundred twenty days after that date:

20 (a) the application is deemed approved;

21 and

22 (b) the director shall issue the
23 license, pursuant to this article, to take effect as of the
24 first business day after expiration of the one-hundred-twenty-
25 day period.

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1 C. The director may for good cause extend the
2 application period.

3 D. An applicant whose application is denied a
4 license by the director pursuant to this article may appeal,
5 within thirty days after receipt of the notice of the denial,
6 from the denial and request a hearing.

7 Section 404. RENEWAL OF LICENSE.--

8 A. A licensee pursuant to this article shall pay a
9 biennial renewal fee of two thousand dollars (\$2,000) no later
10 than thirty days before each biennial anniversary of the
11 issuance of the license or, if the last day is not a business
12 day, on the next business day.

13 B. A licensee pursuant to this article shall submit
14 a renewal report with the renewal fee in a record signed under
15 penalty of perjury that shall be in a form and in a medium
16 prescribed by the director. The renewal report shall state or
17 contain:

18 (1) a description of each material change in
19 information submitted by the licensee in its original license
20 application that has not been reported to the director on any
21 required report; and

22 (2) a list of the locations in New Mexico
23 where the licensee or an authorized delegate of the licensee
24 engages in currency exchange or check cashing, including
25 limited stations and mobile locations.

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1 C. If a licensee does not file a renewal report and
2 pay its renewal fee by the renewal date or any extension of
3 time granted by the director, the director shall send the
4 licensee a notice of suspension. Unless the licensee files the
5 report and pays the renewal fee before expiration of ten days
6 after the notice is sent, the licensee's license is suspended
7 ten days after the director sends the notice of suspension.

8 D. The director for good cause may grant an
9 extension of the renewal date.

10 Article 5

11 AUTHORIZED DELEGATES

12 Section 501. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED
13 DELEGATE.--

14 A. As used in this section, "remit" means to make
15 direct payments of money to a licensee or its representative
16 authorized to receive money or to deposit money in a bank in an
17 account specified by the licensee.

18 B. A contract between a licensee and an authorized
19 delegate shall require the authorized delegate to operate in
20 full compliance with the Uniform Money Services Act. The
21 licensee shall furnish in a record to each authorized delegate
22 policies and procedures sufficient for compliance with the
23 Uniform Money Services Act.

24 C. An authorized delegate shall remit all money
25 owing to the licensee in accordance with the terms of the

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1 contract between the licensee and the authorized delegate.

2 D. If a license is suspended or revoked or a
3 licensee does not renew its license, the director shall notify
4 all authorized delegates of the licensee whose names are in a
5 record filed with the director of the suspension, revocation or
6 nonrenewal. After notice is sent or publication is made, an
7 authorized delegate shall immediately cease to provide money
8 services as a delegate of the licensee.

9 E. An authorized delegate shall not provide money
10 services outside the scope of activity permissible pursuant to
11 the contract between the authorized delegate and the licensee,
12 except activity in which the authorized delegate is authorized
13 to engage pursuant to Article 2, 3 or 4 of the Uniform Money
14 Services Act. An authorized delegate of a licensee holds in
15 trust for the benefit of the licensee all money net of fees
16 received from money transmission.

17 F. An authorized delegate shall not use a
18 subdelegate to conduct money services on behalf of a licensee.

19 Section 502. UNAUTHORIZED ACTIVITIES.--A person shall not
20 provide money services on behalf of a person not licensed
21 pursuant to the Uniform Money Services Act. A person that
22 engages in that activity provides money services to the same
23 extent as if the person were a licensee.

24 Article 6

25 EXAMINATIONS; REPORTS; RECORDS

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1 Section 601. AUTHORITY TO CONDUCT EXAMINATIONS.--

2 A. The director may conduct an annual examination
3 of a licensee or of any of its authorized delegates upon forty-
4 five days' notice in a record to the licensee.

5 B. The director may examine a licensee or its
6 authorized delegate at any time, without notice, if the
7 director has reason to believe that the licensee or authorized
8 delegate is engaging in an unsafe or unsound practice or has
9 violated or is violating the Uniform Money Services Act or a
10 rule adopted or an order issued pursuant to that act.

11 C. If the director concludes that an on-site
12 examination is necessary pursuant to Subsection A of this
13 section, the licensee shall pay the reasonable cost of the
14 examination.

15 D. Information obtained during an examination
16 pursuant to the Uniform Money Services Act may be disclosed
17 only as provided in Section 607 of that act.

18 Section 602. COOPERATION.--The director may consult and
19 cooperate with other state money services regulators in
20 enforcing and administering the Uniform Money Services Act.
21 They may jointly pursue examinations and take other official
22 action that they are otherwise empowered to take.

23 Section 603. REPORTS.--

24 A. A licensee shall file with the director a record
25 signed under penalty of perjury that shall be in a form and in

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1 a medium prescribed by the director and that shall contain any
2 material change in information provided in the licensee's
3 application. The record shall be filed within fifteen business
4 days after the licensee has reason to know of the change.

5 B. A licensee shall file with the director within
6 forty-five days after the end of each fiscal quarter a record
7 signed under penalty of perjury that shall be in a form and in
8 a medium prescribed by the director and that shall contain a
9 current list of all authorized delegates and locations in New
10 Mexico where the licensee or an authorized delegate of the
11 licensee provides money services, including limited stations
12 and mobile locations. The licensee shall state the name and
13 street address of each location and authorized delegate.

14 C. A licensee shall file a report with the director
15 within one business day after the licensee has reason to know
16 of the occurrence of any of the following events:

17 (1) the filing of a petition by or against the
18 licensee pursuant to the United States Bankruptcy Code for
19 bankruptcy or reorganization;

20 (2) the filing of a petition by or against the
21 licensee for receivership, the commencement of any other
22 judicial or administrative proceeding for its dissolution or
23 reorganization or the making of a general assignment for the
24 benefit of its creditors;

25 (3) the commencement of a proceeding to revoke

1 or suspend its license in a state or country in which the
2 licensee engages in business or is licensed;

3 (4) the cancellation or other impairment of
4 the licensee's bond or other security;

5 (5) a charge or conviction of the licensee or
6 of an executive officer, manager, director or person in control
7 of the licensee for a felony; or

8 (6) a charge or conviction of an authorized
9 delegate for a felony.

10 D. The report required pursuant to Subsection C of
11 this section shall be a record signed under penalty of perjury
12 and in a form and in a medium prescribed by the director and
13 shall describe the event requiring the report.

14 Section 604. CHANGE OF CONTROL.--

15 A. A licensee shall:

16 (1) give the director notice in a record
17 signed under penalty of perjury in a form and in a medium
18 prescribed by the director of a proposed change of control
19 within fifteen days after learning of the proposed change of
20 control;

21 (2) request in a record signed under penalty
22 of perjury in a form and in a medium prescribed by the director
23 approval of the proposed change of control; and

24 (3) submit a nonrefundable fee of two thousand
25 dollars (\$2,000) with the notice.

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1 B. After review of a request for approval pursuant
2 to Subsection A of this section, the director may require the
3 licensee to provide in a record signed under penalty of perjury
4 in a form and in a medium prescribed by the director additional
5 information concerning the proposed persons in control of the
6 licensee. The additional information shall be limited to the
7 same types required of the licensee or persons in control of
8 the licensee as part of its original license or renewal
9 application.

10 C. The director shall approve a request for change
11 of control pursuant to Subsection A of this section if, after
12 investigation, the director determines that the person or group
13 of persons requesting approval has the competence, experience,
14 character and general fitness to operate the licensee or person
15 in control of the licensee in a lawful and proper manner and
16 that the public interest will not be jeopardized by the change
17 of control.

18 D. When an application for a change of control
19 pursuant to this article is complete, the director shall notify
20 the licensee in a record of the date on which the request was
21 determined to be complete and:

22 (1) the director shall approve or deny the
23 request within one hundred twenty days after that date; or

24 (2) if the request is not approved or denied
25 within one hundred twenty days after that date:

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1 (a) the request is deemed approved; and
2 (b) the director shall permit the change
3 of control, pursuant to this section, to take effect as of the
4 first business day after expiration of the one-hundred-twenty-
5 day period.

6 E. The director, by rule or order, may exempt a
7 person from any of the requirements of Paragraphs (2) and (3)
8 of Subsection A of this section if it is in the public interest
9 to do so.

10 F. Subsection A of this section does not apply to a
11 public offering of securities.

12 G. Before filing a request for approval to acquire
13 control of a licensee or person in control of a licensee, a
14 person may request in a record a determination from the
15 director as to whether the person would be considered a person
16 in control of a licensee upon consummation of a proposed
17 transaction. If the director determines that the person would
18 not be a person in control of a licensee, the director shall
19 enter an order to that effect and the proposed person and
20 transaction is not subject to the requirements of Subsections A
21 through C of this section.

22 Section 605. RECORDS.--

23 A. A licensee shall maintain the following records
24 for determining its compliance with the Uniform Money Services
25 Act for at least three years:

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1 (1) a record of each payment instrument or
2 stored-value obligation sold;

3 (2) a general ledger posted at least monthly
4 containing all asset, liability, capital, income and expense
5 accounts;

6 (3) bank statements and bank reconciliation
7 records;

8 (4) records of outstanding payment instruments
9 and stored-value obligations;

10 (5) records of each payment instrument and
11 stored-value obligation paid within the three-year period;

12 (6) a list of the last known names and
13 addresses of all of the licensee's authorized delegates; and

14 (7) any other records the director reasonably
15 requires by rule.

16 B. The items specified in Subsection A of this
17 section may be maintained in any form of record as the term
18 "record" is defined in Subsection T of Section 102 of the
19 Uniform Money Services Act.

20 C. Records may be maintained outside New Mexico if
21 they are made accessible to the director on seven
22 business-days' notice that is sent in a record.

23 D. All records maintained by the licensee as
24 required in Subsections A through C of this section are open to
25 inspection by the director pursuant to Section 601 of the

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1 Uniform Money Services Act.

2 Section 606. [RESERVED]

3 Section 607. CONFIDENTIALITY.--

4 A. Except as otherwise provided in Subsection B of
5 this section, all information or reports obtained by the
6 director from an applicant, licensee or authorized delegate and
7 all information contained in or related to examination,
8 investigation, operating or condition reports prepared by, on
9 behalf of or for the use of the director, or financial
10 statements, balance sheets or authorized delegate information,
11 are confidential and are not subject to disclosure pursuant to
12 the Public Records Act.

13 B. The director may disclose information not
14 otherwise subject to disclosure pursuant to Subsection A of
15 this section to representatives of state or federal agencies
16 who promise in a record signed under penalty of perjury in a
17 form and in a medium prescribed by the director that they will
18 maintain the confidentiality of the information or if the
19 director finds that the release is reasonably necessary for the
20 protection of the public and is in the interests of justice and
21 the licensee has been given ten days' notice in a record by the
22 director of the director's intent to release the information.

23 C. This section does not prohibit the director from
24 disclosing to the public a list of persons licensed pursuant to
25 the Uniform Money Services Act or the aggregated financial data

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1 concerning those licensees.

2 Article 7

3 PERMISSIBLE INVESTMENTS

4 Section 701. MAINTENANCE OF PERMISSIBLE INVESTMENTS.--

5 A. A licensee shall maintain at all times
6 permissible investments that have a market value computed in
7 accordance with generally accepted accounting principles of not
8 less than the aggregate amount of all of its outstanding
9 payment instruments and stored-value obligations issued or sold
10 in all states and money transmitted from all states by the
11 licensee.

12 B. The director, with respect to any licensees, may
13 limit the extent to which a type of investment within a class
14 of permissible investments may be considered a permissible
15 investment, except for money and certificates of deposit issued
16 by a bank. The director by rule may prescribe or by order
17 allow other types of investments that the director determines
18 to have a safety substantially equivalent to other permissible
19 investments.

20 C. Permissible investments, even if commingled with
21 other assets of the licensee, are held in trust for the benefit
22 of the purchasers and holders of the licensee's outstanding
23 payment instruments and stored-value obligations in the event
24 of bankruptcy or receivership of the licensee.

25 Section 702. TYPES OF PERMISSIBLE INVESTMENTS.--

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1 A. Except to the extent otherwise limited by the
2 director pursuant to Section 701 of the Uniform Money Services
3 Act, the following investments are permissible pursuant to
4 Section 701 of that act:

5 (1) cash, a certificate of deposit or senior
6 debt obligation of an insured depository institution as defined
7 in Section 3 of the Federal Deposit Insurance Act;

8 (2) a banker's acceptance or bill of exchange
9 that is eligible for purchase upon endorsement by a member bank
10 of the federal reserve system and is eligible for purchase by a
11 federal reserve bank;

12 (3) an investment bearing a rating of one of
13 the three highest grades as defined by a nationally recognized
14 organization that rates securities;

15 (4) an investment security that is an
16 obligation of the United States or a department, agency or
17 instrumentality thereof; an investment in an obligation that is
18 guaranteed fully as to principal and interest by the United
19 States; or an investment in an obligation of a state or a
20 governmental subdivision, agency or instrumentality thereof;

21 (5) receivables that are payable to a licensee
22 from its authorized delegates, in the ordinary course of
23 business, pursuant to contracts that are not past due or
24 doubtful of collection if the aggregate amount of receivables
25 pursuant to this paragraph does not exceed twenty percent of

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1 the total permissible investments of a licensee and the
2 licensee does not hold at one time receivables pursuant to this
3 paragraph in any one person aggregating more than ten percent
4 of the licensee's total permissible investments; and

5 (6) a share or a certificate issued by an
6 open-end management investment company that is registered with
7 the United States securities and exchange commission pursuant
8 to the federal Investment Company Act of 1940 and whose
9 portfolio is restricted by the management company's investment
10 policy to investments specified in Paragraphs (1) through (4)
11 of this subsection.

12 B. The following investments are permissible
13 pursuant to Section 701 of the Uniform Money Services Act, but
14 only to the extent specified:

15 (1) an interest-bearing bill, note, bond or
16 debenture of a person whose equity shares are traded on a
17 national securities exchange or on a national over-the-counter
18 market, if the aggregate of investments pursuant to this
19 paragraph does not exceed twenty percent of the total
20 permissible investments of a licensee and the licensee does not
21 at one time hold investments pursuant to this paragraph in any
22 one person aggregating more than ten percent of the licensee's
23 total permissible investments;

24 (2) a share of a person traded on a national
25 securities exchange or a national over-the-counter market or a

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1 share or a certificate issued by an open-end management
2 investment company that is registered with the United States
3 securities and exchange commission pursuant to the federal
4 Investment Company Act of 1940 and whose portfolio is
5 restricted by the management company's investment policy to
6 shares of a person traded on a national securities exchange or
7 a national over-the-counter market, if the aggregate of
8 investments pursuant to this paragraph does not exceed twenty
9 percent of the total permissible investments of a licensee and
10 the licensee does not at one time hold investments in any one
11 person aggregating more than ten percent of the licensee's
12 total permissible investments;

13 (3) a demand-borrowing agreement made to a
14 corporation or a subsidiary of a corporation whose securities
15 are traded on a national securities exchange, if the aggregate
16 of the amount of principal and interest outstanding pursuant to
17 demand-borrowing agreements pursuant to this paragraph does not
18 exceed twenty percent of the total permissible investments of a
19 licensee and the licensee does not at one time hold principal
20 and interest outstanding pursuant to demand-borrowing
21 agreements pursuant to this paragraph with any one person
22 aggregating more than ten percent of the licensee's total
23 permissible investments; and

24 (4) any other investment the director
25 designates, to the extent specified by the director.

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1 C. The aggregate of investments pursuant to
2 Subsection B of this section shall not exceed fifty percent of
3 the total permissible investments of a licensee calculated in
4 accordance with Section 701 of the Uniform Money Services Act.

5 Article 8

6 ENFORCEMENT

7 Section 801. SUSPENSION AND REVOCATION--RECEIVERSHIP.--

8 A. The director may suspend or revoke a license,
9 place a licensee in receivership or order a licensee to revoke
10 the designation of an authorized delegate if:

11 (1) the licensee violates the Uniform Money
12 Services Act or a rule adopted or an order issued pursuant to
13 that act;

14 (2) the licensee does not cooperate with an
15 examination or investigation by the director;

16 (3) the licensee engages in fraud, intentional
17 misrepresentation or gross negligence;

18 (4) an authorized delegate is convicted of a
19 violation of a state or federal anti-money laundering statute,
20 or violates a rule adopted or an order issued pursuant to the
21 Uniform Money Services Act, as a result of the licensee's
22 willful misconduct or willful blindness;

23 (5) the competence, experience, character or
24 general fitness of the licensee, authorized delegate, person in
25 control of a licensee or responsible person of the licensee or

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1 authorized delegate indicates that it is not in the public
2 interest to permit the person to provide money services;

3 (6) the licensee engages in an unsafe or
4 unsound practice;

5 (7) the licensee is insolvent, suspends
6 payment of its obligations or makes a general assignment for
7 the benefit of its creditors; or

8 (8) the licensee does not remove an authorized
9 delegate after the director issues and serves upon the licensee
10 a final order, including a finding that the authorized delegate
11 has violated the Uniform Money Services Act.

12 B. In determining whether a licensee is engaging in
13 an unsafe or unsound practice, the director may consider the
14 size and condition of the licensee's money transmission, the
15 magnitude of the loss, the gravity of the violation of the
16 Uniform Money Services Act and the previous conduct of the
17 person involved.

18 Section 802. SUSPENSION AND REVOCATION OF AUTHORIZED
19 DELEGATES.--

20 A. The director may issue an order suspending or
21 revoking the designation of an authorized delegate if the
22 director finds that:

23 (1) the authorized delegate violated the
24 Uniform Money Services Act or a rule adopted or an order issued
25 pursuant to that act;

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1 (2) the authorized delegate did not cooperate
2 with an examination or investigation by the director;

3 (3) the authorized delegate engaged in fraud,
4 intentional misrepresentation or gross negligence;

5 (4) the authorized delegate is convicted of a
6 violation of a state or federal anti-money laundering statute;

7 (5) the competence, experience, character or
8 general fitness of the authorized delegate or a person in
9 control of the authorized delegate indicates that it is not in
10 the public interest to permit the authorized delegate to
11 provide money services; or

12 (6) the authorized delegate is engaging in an
13 unsafe or unsound practice.

14 B. In determining whether an authorized delegate is
15 engaging in an unsafe or unsound practice, the director may
16 consider the size and condition of the authorized delegate's
17 provision of money services, the magnitude of the loss, the
18 gravity of the violation of the Uniform Money Services Act or a
19 rule adopted or order issued pursuant to that act and the
20 previous conduct of the authorized delegate.

21 C. An authorized delegate may apply for relief from
22 a suspension or revocation of designation as an authorized
23 delegate according to procedures prescribed by the director.

24 Section 803. ORDERS TO CEASE AND DESIST.--

25 A. If the director determines that a violation of

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1 the Uniform Money Services Act, or of a rule adopted or an
2 order issued pursuant to that act, by a licensee or authorized
3 delegate is likely to cause immediate and irreparable harm to
4 the licensee, its customers or the public as a result of the
5 violation, or causes insolvency or significant dissipation of
6 assets of the licensee, the director may issue an order
7 requiring the licensee or authorized delegate to cease and
8 desist from the violation. The order becomes effective upon
9 service of it upon the licensee or authorized delegate.

10 B. The director may issue an order against a
11 licensee to cease and desist from providing money services
12 through an authorized delegate that is the subject of a
13 separate order by the director.

14 C. An order to cease and desist remains effective
15 and enforceable pending the completion of an administrative
16 proceeding pursuant to Section 801 or 802 of the Uniform Money
17 Services Act.

18 D. A licensee or an authorized delegate that is
19 served with an order to cease and desist may petition the
20 district court for a judicial order setting aside, limiting or
21 suspending the enforcement, operation or effectiveness of the
22 order pending the completion of an administrative proceeding
23 pursuant to Section 801 or 802 of the Uniform Money Services
24 Act.

25 E. An order to cease and desist expires unless the

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1 director commences an administrative proceeding pursuant to
2 Section 801 or 802 of the Uniform Money Services Act within ten
3 days after it is issued.

4 Section 804. CONSENT ORDERS.--The director may enter into
5 a consent order at any time with a person to resolve a matter
6 arising pursuant to the Uniform Money Services Act or a rule
7 adopted or order issued pursuant to that act. A consent order
8 shall be signed by the person to whom it is issued or by the
9 person's authorized representative and shall indicate agreement
10 with the terms contained in the order. A consent order may
11 provide that it does not constitute an admission by a person
12 that the Uniform Money Services Act or a rule adopted or an
13 order issued pursuant to that act has been violated.

14 Section 805. CIVIL PENALTIES.--The director may assess a
15 civil penalty against a person that violates the Uniform Money
16 Services Act or a rule adopted or an order issued pursuant to
17 that act in an amount not to exceed one thousand dollars
18 (\$1,000) per day for each day the violation is outstanding.

19 Section 806. CRIMINAL PENALTIES.--

20 A. A person that intentionally makes a false
21 statement, misrepresentation or false certification in a record
22 filed or required to be maintained pursuant to the Uniform
23 Money Services Act or that intentionally makes a false entry or
24 omits a material entry in such a record is guilty of a fourth
25 degree felony.

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1 B. A person that knowingly engages in an activity
2 for which a license is required pursuant to the Uniform Money
3 Services Act without being licensed pursuant to that act and
4 who receives more than five hundred dollars (\$500) in
5 compensation within a thirty-day period from this activity is
6 guilty of a fourth degree felony.

7 C. A person that knowingly engages in an activity
8 for which a license is required pursuant to the Uniform Money
9 Services Act without being licensed pursuant to that act and
10 who receives no more than five hundred dollars (\$500) in
11 compensation within a thirty-day period from this activity is
12 guilty of a misdemeanor.

13 Section 807. UNLICENSED PERSONS.--

14 A. If the director has reason to believe that a
15 person has violated or is violating Section 201, 301 or 401 of
16 the Uniform Money Services Act, the director may issue an order
17 to show cause why an order to cease and desist should not issue
18 requiring that the person cease and desist from the violation
19 of Section 201, 301 or 401 of that act.

20 B. In an emergency, the director may petition the
21 district court for the issuance of a temporary restraining
22 order ex parte pursuant to the rules of civil procedure.

23 C. An order to cease and desist becomes effective
24 upon service of it upon the person.

25 D. An order to cease and desist remains effective

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1 and enforceable pending the completion of an administrative
2 proceeding pursuant to Sections 901 and 902 of the Uniform
3 Money Services Act.

4 E. A person that is served with an order to cease
5 and desist for violating Section 201, 301 or 401 of the Uniform
6 Money Services Act may petition the district court for a
7 judicial order setting aside, limiting or suspending the
8 enforcement, operation or effectiveness of the order pending
9 the completion of an administrative proceeding pursuant to
10 Sections 901 and 902 of that act.

11 F. An order to cease and desist expires unless the
12 director commences an administrative proceeding within ten days
13 after it is issued.

14 Article 9

15 ADMINISTRATIVE PROCEDURES

16 Section 901. POWERS OF DIRECTOR.--

17 A. The director may act on the director's own
18 initiative or in response to complaints and may receive
19 complaints, take action to obtain voluntary compliance with the
20 Uniform Money Services Act, refer cases to the office of the
21 attorney general and seek or provide remedies as provided in
22 the Uniform Money Services Act.

23 B. The director may investigate and examine, in New
24 Mexico or in any other state or country, by subpoena or
25 otherwise, the activities, books, accounts and records of a

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1 person that provides or offers to provide money services, or a
2 person to which a licensee has delegated its obligations
3 pursuant to an agreement or the Uniform Money Services Act, to
4 determine compliance with the Uniform Money Services Act.

5 Information that identifies individuals who have agreements
6 with the licensee shall not be disclosed to the public. In
7 connection with the investigation, the director may:

8 (1) charge the person the reasonable expenses
9 necessarily incurred to conduct the examination; and

10 (2) require or permit a person to file a
11 statement under oath as to all the facts and circumstances of a
12 matter to be investigated.

13 C. The director may adopt rules to implement the
14 provisions of the Uniform Money Services Act.

15 D. The director may enter into cooperative
16 arrangements with any other federal or state agency having
17 authority over licensees and may exchange with any of those
18 agencies information about a licensee, including information
19 obtained during an examination of the licensee.

20 E. The director may maintain an action to enforce
21 the Uniform Money Services Act in any county, state or country.

22 F. The director may recover the reasonable expenses
23 of enforcing the Uniform Money Services Act pursuant to Article
24 8 of that act, including attorney and expert witness fees based
25 on the hours reasonably expended and the hourly rates for

underscoring material = new
[bracketed material] = delete

1 attorneys and expert witnesses of comparable experience in the
2 community.

3 Section 902. HEARINGS.--Except as otherwise provided in
4 Subsection C of Section 206, Subsection C of Section 304,
5 Subsection C of Section 404 and Sections 803 and 807 of the
6 Uniform Money Services Act, the director shall not suspend or
7 revoke a license, place a licensee in receivership, issue an
8 order to cease and desist, suspend or revoke the designation of
9 an authorized delegate or assess a civil penalty without notice
10 and an opportunity to be heard. The director shall also hold a
11 hearing when requested to do so by an applicant whose
12 application for a license is denied.

13 Article 10

14 MISCELLANEOUS PROVISIONS

15 Section 1001. UNIFORMITY OF APPLICATION AND
16 CONSTRUCTION.--In applying and construing the Uniform Money
17 Services Act, consideration shall be given to the need to
18 promote uniformity of the law with respect to its subject
19 matter among states that enact it.

20 Section 1002. SEVERABILITY CLAUSE.--If any part or
21 application of this act is held invalid, the remainder or its
22 application to other situations or persons shall not be
23 affected.

24 Section 1003. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2009.

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